IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Trung T. Doan

Serial No.: 09/652,713

Filed:

August 31, 2000

For: CHEMICAL DISPENSING SYSTEM FOR SEMICONDUCTOR WAFER PROCESSING

Group Art Unit: 1763

Examiner: Sylvia MacArthur

Atty. Docket:

93-0421.04

SHOWING OF FACTS AND RESPONSE TO THE

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Dear Sir:

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Pursuant to 37 C.F.R. 1.196(b), Applicant herein presents facts not previously of record and respond to the Board's decision dated July 29, 2003.

I. Showing of facts

Applicant acknowledges that the showing of facts "may" include affidavits or declarations. (MPEP §1214.01.) However, in the interest of efficient prosecution, Applicant contends that the

The last three lines on page one should be as follows.

facts below are more than sufficient for the Examiner's determination that the claims satisfy the definiteness requirements of §112, ¶2.

A. MERRIAM WEBSTER'S COLLEGIATE DICTIONARY (10th ed.) defines "configure" as to set up for operation esp. in a particular way

Charles Brantley Attorney for Applicant Reg. No 38,086

Charles Brand

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DATE:

October 23, 2003

PAGES: 20 including cover

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TO:

NAME: Examiner MacArthur

ADDRESS: U.S. Patent and Trademark Office

PHONE: (703) 306-5690

FAX: (703) 872-9630

FROM:

NAME: **DEPT:**

Charles Brantley Patent Department

PHONE: (208) 368-4557

(208) 368-5606

MESSAGE:

RE: Application Ser. No. 09/652,713

Per your phone call this morning, I am faxing a courtesy copy of the Showing of Facts and Response to the Board Decision dated July 29, 2003 that I mailed on 9/26/03. I note that my copy has truncated the last three lines of the first page. I'm not sure if the original I sent you has that problem, but in case it does, I have included the relevant text below. Also, in the interest of keeping the fax short, I have omitted the patents originally included in the appendices. Please let me know if you want a copy of any of those patents.

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(Id. at p. 242. A copy of the relevant page of MERRIAM WEBSTER is included in an appendix to this Response.)

B. The AMERICAN HERITAGE ELECTRONIC DICTIONARY (1992) defines "configure" as

[t]o design, arrange, set up, or shape

(A printout of the relevant definition from the ELECTRONIC DICTIONARY is included in an appendix to this Response.)

C. The patents listed below state as follows.

1. U.S. Pat. No. 6,311,365 by Dornier states

[w]hen, as is particularly preferred, the steam cleaning head has a delta shape with slightly rounded sides, steam pressure chambers are again arranged side by side along the edge portion and are followed radially on the inside by a suction region. This suction region is defined by a circular annular arrangement of further steam pressure chambers in the interior of which a suction region is again found.

(Dornier at col. 2, ln. 31-37.)

2. European Pat. No. 1238766 by Caspar states

[i]t should be understood that the amount of suction applied to the suction apertures depends on the shape and size of the apertures which preferably are round.

(Caspar at ¶[0013].)

3. U.S. Pat. No. 6,341,387 by Zars states

[a]n additional object of the present invention is that it may be installed as a "kit" on virtually any pool, whether new or existing.

The invention is intended to be self-contained and made of materials familiar in the art, preferably polyvinyl chloride (PVC) piping, The (sic) exact limiting quantity of suction is determined by the internal dimensions and arrangement of the piping and sump.

(Zars at col. 2, In. 41-47.)

4. U.S. Pat. No. 4,938,239 by Theurer states

[t]his advantageous combination of the compressed air discharging nozzle and the suction inlet port results in a reinforced suction air flow because the path of this flow is exactly determined by the arrangement of the nozzle within the inlet port so that all the dirt is subjected to the downward pressure of the compressed air as well as the upward suction, which will cause a strong turbulence and detach even strongly adhering dirt particles from the ballast.

(Theurer at col. 3, ln. 30-38.)

5. U.S. Pat. No. 4,522,575 by Tischer states

the discharge pressure and suction pressure are easily determined design parameters . . .

(Tischer at col. 6, ln. 14-16.)

6. U.S. Pat. No. 3,939,065 by Einersson states

[t]he strength of the pressure and suction waves depends, besides by the design of the pulsation organs, mainly on the peripheral velocity of the drum relative to the peripheral velocity of the suspension in the liquid layers in question.

(Einersson at col. 2, ln. 41-45.)

(Copies of these patents are included in appendices to this Response.)

II. Argument

Claims 36-37 are pending.

Claims 36-37 are appealed.

Claims 36-37 are rejected by the Board based on a new ground - §112, ¶2.

Applicant requests the Examiner consider the definiteness of the pending claims.

The Board's decision dated July 29, 2003 reversed the Examiner's §102 rejection and raised a §112, ¶2 indefiniteness rejection. In doing so, the Board focused on independent claim 36's limitations concerning a splash controller that is (1) configured to draw a chemical toward itself; and (2) configured to generate a gas pressure. The Board specifically argued that *suction* applied *through* the splash controller, rather than the *configuration* of the splash controller, is what draws the chemical and generates the gas pressure. (Appeal Decision at p. 4-5.) Significantly, in support for this argument, the Board interpreted the term "configured" to mean "shaped." (*Id.* at p. 4.) As authority for this interpretation, the Board cited page 242 of Merriam Webster's Collectate Dictionary (10th ed.). (Appeal Decision at p. 4, footnote 1.) However, as cited above in part IA, that reference appears to offer a different definition. Specifically, the definition of the root word "configure" indicates that "configured" means "set up for operation." Moreover, the alternate source cited above in part IB indicates that the term "configured" is broad enough to encompass Merriam Webster's actual definition, the Board's stated definition, and more.

Namely, the Electronic Dictionary's definition of the root word indicates that "configured" broadly means "designed, arranged, set up, or shaped."

Moreover, one of ordinary skill in the art would be aware that suction is a function of the design, arrangement, set up, or shape (i.e. configuration) of a relevant device, as demonstrated by the patents cited above in part IC. For example, U.S. Pat. No. 6,311,365 by Dornier teaches that a "suction region" is defined by an "arrangement" of pressure chambers. (Dornier at col. 2, ln. 35-36.) European Pat. No. 1238766 by Caspar indicates that "the amount of suction applied" depends on the "shape" of a device's apertures. (Caspar at ¶[0013].) U.S. Pat. No. 6,341,387 by Zars discloses that a "quantity of suction" is determined by the internal dimensions and "arrangement" of piping. (Zars at col. 2, ln. 45-47.) U.S. Pat. No. 4,938,239 by Theurer instructs one of ordinary skill in the art that the path of a "suction air flow" is determined by an

"arrangement" of a nozzle with an inlet port. (Theurer at col. 3, ln. 32-34.) U.S. Pat. No. 4,522,575 by Tischer discloses that "suction pressure" is a "design" parameter. (Tischer at col. 6, ln. 14-16.) U.S. Pat. No. 3,939,065 by Einersson indicates that the strength and press of "suction waves" depends in part upon the "design" of pulsation devices. (Einersson at col. 2, ln. 41-43.) Applicant contends that such knowledge is deemed to be imparted to one of ordinary skill in the art when considering the Specification's support for the definiteness of the terms atissue.

Further, the Specification in fact provides non-limiting support for designs/arrangements/ set ups/shapes of splash controllers. Applicant cited the relevant portions in the Appeal Brief when summarizing the invention. (Appeal Brief at p. 2.) To reiterate, Applicant cited p. 3, ln. 18-19; p. 4, ln. 5-6; and FIGS. 1&2 (addressing vacuum port 18) for the general disclosure of a splash controller. For the specific limitation of a splash controller configured to draw the chemical toward itself, Applicant cited p. 4, ln. 3-5, 16-18 (addressing how the design/arrangement/set up/shape of vacuum port 18 allows application of suction to a particular area). For the specific limitation of a splash controller configured to generate the relevant gas pressure, Applicant cited p. 3, ln. 3-7, 16-18; and FIGS. 1&2. Applicant alerts the Examiner that p. 4, ln. 3-7, 16-18 are relevant to this limitation as well.

In addition, it is significant that the Board has acknowledged that suction draws the relevant chemical and generates the relevant gas pressure (and that the Specification discloses so). (See Appeal Decision at p. 5-6.)

Hence, because the Specification discloses a splash controller configured (i.e. designed, arranged, set up, or shaped) for suction; and suction draws the relevant chemical and generates the relevant gas pressure; then the Specification necessarily discloses a splash controller configured to draw the relevant chemical and generate the relevant gas pressure.

(Moreover, for reasons addressed in Appeal Brief, Hurtig cannot be interpreted as disclosing a component whose design, arrangement, set up, and/or shape meets claim 36's relevant configuration requirements. See Appeal Brief at p. 3-4.)

As a result, Applicant contends the claims meet §112's definiteness requirement and requests the Examiner's allowance of all of the pending claims. If there are any matters which

may be resolved or clarified through a telephone interview, the Examiner is requested to contact Applicant's undersigned attorney at the number indicated.

Respectfully submitted,

Date: 9 3

Charles B. Brantley II Reg. No. 38,086 Micron Technology, Inc. 8000 S. Federal Way Boise, ID 83716-9632 (208) 368-4557 ATTORNEY FOR APPLICANT Appendix 1: Definition of "configure" from Merriam Webster's Collegiate Dictionary (10^{th} ed.)



Webster's Collegiate Dictionary

TENTH EDITION

Merriam-Webster, Incorporated Springfield, Massachusetts, U.S.A.

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242 confidence. • confraternity

mind or a manner marked by easy coolness and freedom from uncertainty, diffidence, or embarrassment. CONFIDENCE stresses faith in oneself and one's powers without any suggestion of conceit or arrogance (the confidence that comes from long experience). ASSURANCE carries a stronger implication of certainty and may suggest arrogance carries a stronger implication of certainty and may suggest arrogance or lack of objectivity in assessing one's own powers (handled the cross-examination with complete assurance). SELF-POSSESION implies an ease or coolness under stress that reflects perfect self-control and command of one's powers (answered the insolent question with complete self-possession). AFLOMB implies a manifest self-possession in trying or challenging situations (handled the reporters with great optomb).

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confidence adj (1849): of, relating to, or adept at swindling by false promises (a ~ game) (a ~ man) confidence interval n (1934): a group of continuous or discrete adjacent values that is used to estimate a statistical parameter (as a mean or variance) and that tends to include the true value of the parameter a predetermined proportion of the time if the process of finding the group of values is repeated a number of times confidence limits n pt (1939): the end points of a confidence interval confidence limits n pt (1939): the end points of a confidence interval confident (\text{\text{Kin-fo-dont.}} \text{-dent\text{

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con-for-mity kkan-for-ma-th\ n, pl-ties (15c) 1: correspondent form, manner, or character: AGREEMENT (behaved in ~ with he liefs) 2: an act or instance of conforming 3: action in according to the standard or authority (~ to social custom) with some specified standard or authority (~ to social custom) of con-found kkan-faulne, kin-l v (IME, fr. MF confonder, fr. L condere to pour together, confuse, fr. com + fundere to pour — most found) (14c) 1: a archaic: to bring to ruin: DESTRATE (conferences ... are not for accomplishment but to ~ bis sharties. — J. K. Galbraith) 2 obs: constuna wastr 3: a: to put shame: DISCOMFIT (a performance that ~ed the crities) b: EDS (sought to ~ bis arguments) 4: DAMN 5: to throw (a persolve confusion or perplexity 6: a: to fail to discern differences between the confusion of sprayse properties of conderer \(\frac{1}{2}\) funder \(\fr

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Appendix 2: Definition from AMERICAN HERITAGE ELECTRONIC DICTIONARY (1992)

con-fig-ure (kən-fig/yər) tr.v. con-fig-ured, con-fig-ur-ing, con-fig-ures. To design, arrange, set up, or shape with a view to specific applications or uses: an internal security vehicle that was configured for rough terrain. [Middle English configuren, from Old French configurer, from Latin configurare: com-, com-+figurare, to form (from figura, shape; see dheigh-below).]

Appendix 3: U.S. Pat. No. 6,311,365 by Dornier

Appendix 4: European Pat. No. 1238766 by Caspar

Appendix 5: U.S. Pat. No. 6,341,387 by Zars

Appendix 6: U.S. Pat. No. 4,938,239 by Theurer

Appendix 7: U.S. Pat. No. 4,522,575 by Tischer

Appendix 8: U.S. Pat. No. 3,939,065 by Einersson

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Title: <u>CHEMICAL DISPENS</u> Inventor: <u>Trung T. Doan</u>	ING SYSTEM FO	R SEMICONDI	JCTOR WAFER PRO	CESSING					
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Fitte: CHEMICAL DISPENSING SYSTEM Inventor: Trung T. Doan	HORSEMICON	DUCTOR WAF	ER PROCESSING						
Micron File No: <u>93-0421-04</u> Application Serial No. <u>09/652,713</u>	Attort	ncy/Agent. Charl	es B. Brantley						
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FEE TRANSMITTAL for FY 2003

Effective 01/01/2003. Patent fees are subject to annual revision. Applicant claims small entity status. See 37 CFR 1.27

of 1995, no persons are required to respond to a collection of info

		Complete if Known
	Application Number	09/652,713
•	Filing Date	August 31, 2000
	First Named Inventor .	Trung T. Doan
-	Examiner Name	Sylvia MacArthur
_	Art Unit	1763
	Attornay Docket No	93-0421.04

TOTAL AMOUNT OF PAYMENT (\$) 180					Attorney Docket No. 93-0421.04							
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The Director is authorized to: (check all that apply)						1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action		
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to the above					,	1251	110	2251	55	Extension for reply within first month		
				ALCULATION		1252	410	2252	205	Extension for reply within second month		
1. BASI	C, FIL	ING FE	E			1253	930	2253	465	Extension for reply within third month		
Large Entity Fee Fee	Sr	nall Entity	-	Fee Description		1254	1,450	2254	725	Extension for reply within fourth month		
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1001 750	200	11 375	5	Utility filing fee		1401	320	2401	160	Notice of Appeal		
1002 33¢	200	2 165	5	Design filing fee		1402	320	2402	160	Filing a brief in support of an appeal		
1003 520	200	3 , 260)	Plant filing fee		1403	280	2403	140	Request for oral hearing		
1004 750 1005 160	200			Reissue filling fee Provisional filling fee		1451	1,510	1451	1,510	Petition to institute a public use proceeding		
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				Extra Fee from Claims below	Fee Paid	1503	630	2503	315	Plant Issue fee		
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Fee Fe Code (\$)		Fee Code	Fee (\$)			1809	750	2809	375	Filing a submission after final rejection (37 CFR § 1.129(a))		
1202 18	- [;	2202	9	Claims in excess of 2	0	1810	750	2810	375	For each additional invention to be		
1201 84	- [:	2201	42	Independent claims i	n excess of 3					examined (37 CFR § 1.129(b))		
1203 230		2203	140	Multiple dependent c ** Reissue independe		1801	750	2801	375	Request for Continued Examination (RCE)		
1204 84 1205 18		2204	42	original patent ** Relssue claims in		1802 900 1802 900 Request for expedited examination of a design application						
1205 18	1 3	2205	9	over original patent		Other fe	e (specif	y)				
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Signature	Charles	rantlan	Date	9/26/3		

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